

REMARKS

Claims 1-14 are pending in the instant application. Claims 1-3 and 12 have been amended, and new Claims 15-20 are being submitted for consideration by the Examiner. Applicants respectfully request reconsideration and allowance of the instant application.

Applicants believe that the above-identified amendments overcome the rejection under 35 U.S.C. 112, second paragraph.

The rejection of Claims 1-14 under 35 U.S.C. 102(b) as being anticipated by or in the alternative as obvious under 35 U.S.C. 103(a) over Douglas (U.S.P.N. 4,680,316), Petersen et al. (U.S.P.N. 5,188,531), Hanley et al (U.S.P.N. 5,266,133) or Hanley et al. (U.S.P.N. 6,150,428), is respectfully traversed.

Douglas relates to a pumpable composition that is applied onto a substrate as a viscous fluid. In contrast the instant invention relates to a composition having a defined shape, for example, three dimensional configurations such as illustrated in the instant figures (it is noted that the Office Action lacks any discussion of Claim 11). Further Douglas employs styrene butadiene rubbers in amounts from about 10 to about 25 weight percent and fails to teach using a maleic anhydride modified polymer or copolymer (e.g., compare Col. 4, Lines 1-30 of Petersen to, for example, Claim 3). For these reasons Douglas neither anticipates nor renders the claimed invention obvious.

Petersen et al is similar to Douglas in that Petersen relates to a pumpable composition (e.g., refer to the Abstract which discloses a viscosity of 100,000 and 5,000,000). Further Petersen employs pumpable solvated EPDM and EP compounds and fails to disclose any maleic anhydride modified compounds or styrene butadiene rubber containing compositions. For these reasons Petersen cannot anticipate or render the claimed invention obvious.

Hanley et al ('133) relates to compositions based upon ionomeric compounds (e.g., Surlyn®), or copolymers of ethylene and alph, beta ethylenically unsaturated carboxylic acid partially neutralized with a metallic ion. A skilled person in this art would not equate or interchange such compounds to maleic anhydride modified compounds or styrene butadiene rubbers. Further pending claims such as Claim 2 expressly teach away from the presence of such ionomeric compounds (e.g, contrast the instant definition of "substantially free" of ionomers with the amounts [30 to 80 parts and 50 plus wt. %] of ionomers taught by the Examples and claims of Hanley '133). Consequently, Hanley '133 teaches away from and cannot establish a prima facie case of obviousness.

Applicants reserve the right to challenge Hanley ('428) as being prior art to the claimed invention. Assuming arguendo that Hanley '428 is prior art, Hanley teaches away from using a composition comprising a combination comprising a curing agent or catalyst (e.g., refer to Col. 4, Lines 25-30 of Hanley which teach the absence of catalytic agents). Further Hanley '428 fails to disclose using

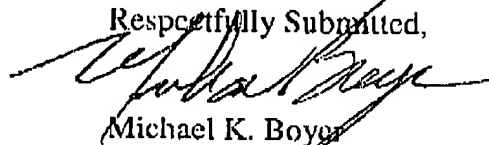
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styrene butadiene rubber as a base polymer. Consequently, Hanley teaches away from the claimed invention and, therefore, cannot anticipate or render the claimed invention obvious.

The Office Action lacks any explanation as to how the cited references are applied to the dependent claims. For example, the Office Action lacks any explanation of how the cited references anticipate or render obvious an aspect of the invention covered by claims such as Claim 12 that recite a "self-retaining" expandable material. Douglas and Petersen are non-analogous pumpable compositions and Hanley employs non-unitary fasteners for retaining the expandable material. That is, the instant invention can obviate the need for the fasteners, extensions and carriers employed by Hanley ('428).

Applicants believe that the pending claims define patentable subject matter and respectfully request issuance of a Notice of Allowability for the instant application. Please find attached hereto a Petition for a Three Month Extension of Time. Should there any other fee due in connection with the instant application, please charge the same to Deposit Account No. 15-0680 (Orscheln Management Co.). Should the Examiner deem that any further action on the part of Applicants would advance prosecution of this application, the Examiner is invited to telephone Applicants' attorney.

Respectfully Submitted,



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Encl.: Certificate of Facsimile Dated September 12, 2001  
Three Month Extension of Time

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**Version With Markings To Show Changes Made**

Please amend Claims 1-3, and 12 as follows:

1(Amended). An unexpanded composition comprising a combination comprising [a modified ethylene copolymer] at least one base polymer comprising at least one maleic anhydride modified copolymer of ethylene [base polymer], at least one [hydrazide] expansion agent, at least one hydrocarbon resin and at least one [sulfur containing] curing agent.

2(Amended). An injection molded composition comprising a combination comprising at least one copolymer base polymer comprising at least one member selected from the group of styrene butadiene rubber, maleic anhydride modified copolymer of ethylene and maleic anhydride modified copolymer of vinyl acetate, at least one expansion agent, at least one hydrocarbon resin and at least one curing agent wherein said composition is substantially free of ionomeric compounds.

3(Amended). The composition of Claim 1 or 2 wherein the base polymer comprises [a modified ethylene copolymer and corresponds to] about 50 to about 90 wt.% of the composition.

12(Amended). An [self-retaining] expandable composition comprising a combination comprising at least one base polymer, at least one supplemental polymer, at least one expansion agent, at least one catalyst and at least one filler and wherein said composition is self-retaining.

Please add new Claims 15-20 as follows:

--15. A composition comprising a combination comprising at least one maleic anhydride modified copolymer of ethylene base polymer, at least one

curing catalyst, styrene butadiene rubber, at least one hydrocarbon resin, ethyl vinyl acetate, at least one blowing agent, and at least one filler.

16. The composition of any one of Claims 1, 2, 12 or 15 wherein said composition comprises a self-retaining automotive sealant.

17. The composition of any one of Claims 1, 12 or 15 wherein said composition is substantially free of ionomeric compounds.

18. The composition of Claim 2 wherein the base polymer comprises styrene butadiene rubber.

19. The composition of any one of Claims 1, 2, 12 or 15 wherein said composition comprises an unexpanded composition having a three dimensional predetermined shape.

20. The composition of Claim 16 wherein said self-retaining automotive sealant has a predetermined three dimensional shape and wherein a portion of said sealant retains said sealant at a predetermined location with respect to a member to be sealed.--